

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

TERA A. McMILLAN, )  
                          )  
                          )  
                          )      **Case No: 2:07:CV-01-WKW**  
**Plaintiff,**        )  
                          )  
                          )  
vs.                    )  
                          )  
**ALABAMA DEPARTMENT OF**        )  
**YOUTH SERVICES and**        )  
**MICHAEL J. HARDY,**        )  
                          )  
**Defendants.**        )

**MOTION FOR SUMMARY JUDGMENT**

The Alabama Department of Youth Services (“DYS”) hereby moves for entry of an order granting summary judgment for DYS and against the Plaintiff on all claims against DYS in the above referenced case. As grounds wherefore, DYS states the following:

1. DYS is not liable because it is entitled to the *Faragher-Ellerth* defense.
2. The Plaintiff has insufficient facts to establish a *prima facie* case of sexually charged hostile working environment.
3. The Plaintiff’s claim of a sexually charged hostile working environment is barred by the 180 day statute of limitation.
4. The Plaintiff has insufficient facts to establish a *prima facie* case of retaliation against DYS.
5. Title VII does not provide for the recovery of punitive damages against DYS.
6. In support of this motion, the Defendant submits the following exhibits, each of which is attached to the Brief in Support of Motion for Summary Judgment:

**Exhibit 1**—excerpts of the transcript of the testimony of Tera McMillan during the administrative hearing before the State Personnel Board regarding the termination of Michael Hardy's employment.

**Exhibit 2**— excerpts of the deposition of the Plaintiff Tera McMillan taken in the administrative case before the State Personnel Board regarding the termination of Michael Hardy's employment.

**Exhibit 3** - DYS Policy number 3.13.2, prohibiting sexual harassment in the workplace and establishing the procedures for reporting sexual harassment.

**Exhibit 4** - Plaintiff's EEOC Charge of Discrimination in this case.

WHEREFORE, DYS respectfully requests a judgement against the Plaintiff for all claims in the above referenced case.

Respectfully submitted,

**s/ T. Dudley Perry Jr.**  
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#### **CERTIFICATE OF SERVICE**

I hereby certify that on the 26<sup>th</sup> day of November, 2007, I electronically filed the foregoing, MOTION FOR SUMMARY JUDGMENT with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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s/ T. Dudley Perry Jr.

T. Dudley Perry, Jr.

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Alabama Department of Youth Services